

SUMMARY OF MAIN PROVISIONS OF THE “BEEP ACT”

The “BEEP” Act would create a “Beltway Completion Authority” as a brand new government entity with extraordinary powers to override all local control of toll road construction within their boundaries and exercise unrestrained “dominant eminent domain” over all other local government property. This new Authority would be created automatically by the Act with no approval by voters or the communities involved or affected. Proposed C.R.S. 43-4-1004. The Authority would have the power to build and toll new lanes of highway anywhere throughout the Denver Metropolitan Area or anywhere else in the state. *See* Proposed C.R.S. 43-4-1005, -1007. It would create a new layer of bureaucracy on top of the existing E-470, Northwest Parkway and Jefferson Parkway Authorities.

Elimination of Local Control over New Toll Roads. The Authority can force new toll lanes into any jurisdiction without its approval. The Authority would be run by a Board of Directors that would include one voting representative from 15 metro counties or cities (including Golden and the City of Denver), one special district (Highlands Ranch Metro), CDOT and the High Performance Transportation Enterprise. Proposed C.R.S. 43-4-1006(1)(e). As few as six votes would allow the Authority to condemn property, build and toll new lanes and eliminate local regulations throughout Metropolitan Denver, even if the affected jurisdiction votes against such actions or is not even represented on the Board. Proposed C.R.S. 43-4-1006(1)(e). This radically shifts from the current Public Highway Authority Law, which requires the consent of any jurisdiction in which a segment of the Beltway would be built. C.R.S. 43-4-504, -506(1)(f). This power could be used against any jurisdiction in the Denver Metropolitan Area. The Highlands Ranch Metropolitan District would have an equal say over what happens in Lafayette as the City of Lafayette, and vice versa. Communities not on the Board would have no say at all.

“Dominant Eminent Domain.” The Act would grant the Authority the power of eminent domain to seize private property and an extraordinary “dominant eminent domain” power over public property. Proposed CRS 43-4-1003(10); 43-4-1007(11). “Dominant eminent domain” would allow the Authority to condemn *any* public property from *any* local government with no defense that the condemned property is needed for existing public purposes. Proposed CRS 43-4-1003(10). Property that would be wholly at the whim of the Authority’s super-eminent-domain power includes schools, parks, water infrastructure, local roads, civic buildings, jails, and open space. The Authority would not only have the power to seize public and private property, but also to then sell that property to “any person,” including domestic and foreign corporations with no limits on use. Proposed C.R.S. 43-4-1010(1)(e).

Elimination of H.B. 1041 Regulations. The Act would eliminate the right of any jurisdiction in the Denver Metropolitan Area to apply Areas and Activities of Statewide Interest Regulations (“H.B. 1041”) to any extension, upgrade or enhancement of the Beltway. Proposed C.R.S. 43-4-

1008. The Legislature passed H.B. 1041 almost 40 years ago to ensure local control of the effects of large projects that can disrupt communities, including power, energy, water, solid waste, airport and other similar projects. The proposed rollback of the H.B. 1041 protections creates a precedent that puts all other H.B. 1041 protections at risk. Even state agencies are subject to and comply with H.B. 1041 regulations; the Act would place the Authority on a higher status than state agencies.

No Limit To Geographic Scope. The Act is written loosely and broadly to allow the Authority to engage in condemnation and toll development anywhere in the Denver Metropolitan Area – and even outside of the Metropolitan area – without local approval so long as it can say that such efforts would “enhance,” “expand,” or “upgrade” a Beltway around Denver. C.R.S. 43-4-1003(2)-(3), (9); -1005, -1007(8). The wide powers of the Authority are not limited to the area between the Northwest Parkway and C-470. *Id.* These expansions, enhancements or upgrades of the Beltway over the objections of local communities could occur anywhere in the Denver area or even outside the area, including feeders into the C-470 loop, an entirely new beltway loop, resurrection of the Super Slab, or other loop extensions.

No Environmental Review. The Act contains no provisions requiring any environmental review by the Authority and nothing to replace the reviews under H.B. 1041 that it would displace. By comparison, CDOT and the HPTE conduct environmental analyses for all of their major actions.

No Oversight. The Act allows the Authority to transfer “dominion,” property, and toll road facilities to “any person,” including domestic or foreign corporations. Proposed C.R.S. 43-4-1010(1)(e). Any such “person” would have complete control of toll rates and operation of transportation facilities. The Act gives the Authority power to set tolls “without any supervision or regulation of such fees, tolls, rates, and charges by any board, agency, bureau, commission or official.” Proposed C.R.S. 43-4-1007(4). The Authority can also create unaccountable “Beltway Completion Activity Enterprises” and transfer property and activities to them. Proposed C.R.S. 43-4-1007(15).

Unconstitutional Restriction on Cooperation among Local Jurisdictions. The Act would make it illegal for any two cities and/or counties in the Denver area to enter into intergovernmental agreements “or combinations to frustrate the purposes of the Authority.” Proposed C.R.S. 43-4-1011(2). This dramatic overreach would apply even to jurisdictions that cannot vote on the Board or that may be outvoted. As written, it would also apply if two jurisdictions agreed to work cooperatively for the amendment of the legislation in the future. It reflects the overall purpose and effect of the Act to isolate and marginalize local jurisdictions.